

- d. inorganic filler, being present at greater than 30% by weight; and
- e. an additive selected from the group consisting of cocoa, sugar, fibre, starch, pullulan, polysaccharide expansion agents, foaming agents, cocoa butter, olive oil, corn oil, or a combination thereof, being present at from 0% to 25% by weight.

Please cancel claim 2.

REMARKS

Claims 1, 3-18, 21-27 and 31-34 remain in the application. Claims 1, 18, 25, 31 and 32 have been amended and claim 2 has been cancelled.

Applicants acknowledge with appreciation the phone interview of April 29, 2002 and Examiner's helpful comments made during said interview.

1. The Examiner has rejected claims 1, 3-15 and 31-34 under 35 USC §102(b) as being anticipated by Gibson et al. Applicants respectfully traverse the Examiner on this ground of rejection.

The instant invention, as now claimed, is directed to a smoking material comprising from 6 to 30% by weight of a non-polyol aerosol generator and includes up to 20% by weight of tobacco, a binder at no more than 20% by weight and an inorganic filler which also is less than 30% by weight. As pointed out in the instant application on page 1, line 18 to page 2, line 3 well know plasticizers (bonding agents) for cigarettes, such as, for example, triethylene glycol diacetate, glycerol triacetate and glycerol diacetate can be used as non-polyol aerosol generators. And, in accordance with the present invention, products containing up to 30% by weight of these plasticizers were found, surprisingly, to be very acceptable to smokers.

To the contrary, Gibson et al teaches a smoking material which includes tobacco, binder and inorganic filler. Additionally, as pointed out by the Examiner, Gibson et al teaches the use of at least one non-polyol aerosol generator at column 4, lines 34-46, but said non-polyol aerosol generator is clearly less than 6% by weight of the smoking material. The Examiner alleges that the non-polyol aerosol generator glycerol triacetate, is 5% by weight. And, as now claimed in the instant application, the non-smoking tobacco includes at least 6% non-polyol aerosol generator in the smoking material. Applicants submit that Gibson et al does not teach nor suggest that glycerol triacetate is used as a non-polyol aerosol generator, much less

its use and acceptability by smokers at a level exceeding the very specific 5% by weight, as alleged by the Examiner. Thus, Applicants urge that the instant invention, as now claimed, is not anticipated nor obvious in view of the teachings of Gibson et al and respectfully request that the Examiner withdraw the rejection.

2. The Examiner has rejected claims 2, 16 and 17 under 35 USC §103(a) as being unpatentable over Gibson et al. Applicants respectfully traverse the Examiner on this ground of rejection.

Claim 2 has been cancelled. Claims 16 and 17 are dependent claims depending from independent claim 1 and specifically claim a smoking material which includes from 6 to 30% by weight of a non-polyol aerosol generator. Thus, Applicants urge that since the smoking material includes at least 6% by weight of a non-polyol aerosol generator, a 5% non-polyol aerosol generator, as allegedly taught by Gibson et al, does not teach or suggest this claimed limitation as discussed previously. Therefore, Applicants urge that the instant claims are patentable over Gibson et al and respectfully request that the Examiner withdraw this rejection.

3. The Examiner has rejected claims 18 and 21-24 under 35 USC §103(a) as being unpatentable over Gibson et al in view of Schneider et al. Applicants respectfully traverse the Examiner on this ground of rejection.

As now claimed in the instant application, claim 18 is directed to a smoking article which includes a first particulate smoking material which is circumscribed by a second particulate smoking material wherein either the first or the second smoking material comprises tobacco, binder, inorganic filler and a non-polyol aerosol generator which is from 6 to 30% by weight of the smoking material. As previously discussed, Gibson et al does not teach nor remotely suggest a smoking material wherein one of the components is a non-polyol aerosol generator which is 6 to 30% by weight of the smoking material. And, the Examiner has not cited Schneider et al as teaching such a tobacco material, but has cited Schneider et al as teaching a smoking article which includes a first smoking material which is circumscribed by a second smoking material. Nowhere does Schneider et al teach or remotely suggest that the first smoking material or the second smoking material includes a non-polyol aerosol generator and particularly one wherein the smoking material includes at least 6% and not less than 30% by weight of a non-polyol aerosol generator. Thus, Applicants urge that the instant invention, as now claimed in independent claim 18, is not taught nor remotely suggested by the combination of Gibson et al with Schneider et al and respectfully request that the Examiner withdraw this rejection.

4. The Examiner has rejected claims 25-27 under 35 USC §103(a) as being unpatentable over Gibson et al in combination with Schneider et al and Brown et al. Applicants respectfully traverse the Examiner on this ground of rejection.

Independent claim 25, as amended, is directed to a smoking article which is comprised of a smokable rod and a filter. The smokable rod includes a non-polyol aerosol generator wherein the non-polyol aerosol generator is from 6 to 30% by weight of smoking material in the smokable rod.

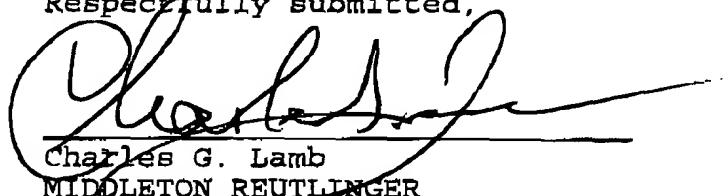
As discussed previously, Gibson et al teaches a smoking material which, as alleged by the Examiner, may include a non-polyol aerosol generator material at a level of 5% by weight of the smoking material. In the instant invention, as now claimed in independent claim 25, the non-polyol aerosol generator material is from 6 to 30% by weight of the smoking material. Moreover, neither Schneider et al nor Brown et al teach or remotely suggest the instant claimed smoking material. The Schneider et al reference is cited as teaching a filter and a smoking rod wherein the smoking rod includes a first smoking material circumscribed by a second smoking material. Nowhere does Schneider et al teach or remotely suggest a smoking material including a non-polyol aerosol generating compound much less a smoking material wherein the non-polyol aerosol generator is from 6 to 30% by weight. Furthermore, the Brown et al reference is

cited as teaching a filter, including a polyhydric alcohol to impart flexibility to the filter material. Brown et al does not teach nor remotely suggest the unique smokable tobacco material including a non-polyol aerosol generating compound, as now claimed. Thus, Applicants urge that the instant invention in accordance with amended claim 25, dependent claims 26 and 27 are not taught nor remotely suggested by the combination of references cited by the Examiner and respectfully request that the Examiner withdraw this rejection.

Attached hereto is a marked up version of the changes made to the claims by the current amendment. The attached is captioned "Versions of Markings to Show Changes Made".

Applicants respectfully request that a timely Notice of Allowance be issued in this case. However, if the Examiner believes there are other unresolved issues in this case, Applicants' attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues.

Respectfully submitted,



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"Versions of Markings to Show Changes Made"

1. (Twice Amended) A smoking material comprising from 6 to 30% by weight of a non-polyol aerosol generator, selected from the group consisting of triethylene glycol diacetate, glycerol triacetate, glycerol diacetate or a combination thereof, up to 20% by weight tobacco, binder at not more than 20% by weight and not less than 30% by weight inorganic filler.

18. (Amended) A smoking article comprising a smokable rod and a filter, said rod comprising a core and an outer part, said core comprising a first particulate smoking material and a first cigarette paper wrapper enwrapping said first smoking material and said outer part comprising a second particulate smoking material disposed annularly about said core and a second cigarette paper wrapper enwrapping said second smoking material, wherein either of said first or said second smoking material comprises from 6 to 30% by weight of a non-polyol aerosol generator, up to 20% by weight tobacco, binder at not more than 20% by weight and not less than 30% by weight inorganic filler.

25. (Amended) A smoking article comprising a smokable rod and a filter, the smokable rod comprising smoking material including tobacco, binder, inorganic filter and a non-polyol aerosol generator, the non-polyol aerosol generator being from 6

to 30% by weight of said smoking material. and the filter comprising filtration material provided with an elutable aerosol generator which is a polyol and/or a non-polyol aerosol generator, the aerosol generator being elutable from the filter upon smoking of the smoking article to enhance the aerosol provided from the smoking material.

31. (Amended) A smoking material comprising from 6 to 30% by weight of a non-polyol aerosol generator, [the total amount of aerosol generator being about 30% or less, no tobacco,] a binder at less than 10% by weight and not less than 30% by weight inorganic filler.

32. (Amended) A smoking material consisting essentially of:

- a. an aerosol generator, being present at from about 2% to about 30% by weight, said aerosol generator comprising:
  - i. a non-polyol aerosol generator, selected from the group consisting of triethylene glycol diacetate, glycerol triacetate, glycerol diacetate or a combination thereof, said non-polyol aerosol generator being present at from [about 2%] 6% to [about] 30% by weight; and



- ii. a polyol aerosol generator, selected from the group consisting of glycerol, triethylene glycol, propylene glycol, polyhydric acid, and ester, a high boiling point hydrocarbon, methylene glycol, methyl citrate or a combination thereof, said polyol aerosol generator being present at [from about 0% to about] less than 24% by weight;
- b. tobacco, being present at less than [from about 0% to about] 20% by weight;
- c. binder, being present at [from about 0% to about] less than 20% by weight;
- d. inorganic filler, being present at greater than [about] 30% by weight; and
- e. an additive selected from the group consisting of cocoa, sugar, fibre, starch, pullulan, polysaccharide expansion agents, foaming agents, cocoa butter, olive oil, corn oil, or a combination thereof, being present at [from about 0% to about] less than 25% by weight.